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TAGS: [PTER](#) [ETTC](#) [KTFN](#) [EFIN](#) [PGOV](#) [UN](#) [GM](#)
SUBJECT: TERRORISM FINANCE: MORE GERMAN INFORMATION ON
ISMAIL ABU SHAWEEH

REF: A. DUSSELDORF 15

[1](#)B. 7/13 LURIE-SANDAGE/HINNEN/NELSON/WILCOX EMAIL

Classified By: Acting Minister-Counselor for Economic Affairs Robert S.
Hagen for Reasons 1.4 (b), (d) and (e)

[1](#)1. (C) On July 12, Germany prenotified the proposed addition of Ismail Abu Shaweesh to the UNSCR 1267 Committee's Consolidated List of Individuals and Entities Associated with Al Qaida, the Taliban, and Usama Bin Laden. Ismail Abu Shaweesh is in German custody and on trial for several alleged crimes (per ref A). The German government made the prenotification in Washington to S/CT and in Berlin to Global Affairs Officer. Since that time, Washington agencies indicated (e.g., ref B) additional information might be needed before the USG could support the German proposal.

[1](#)2. (C) Pursuant to informal Washington requests, Justice Ministry Office Counterterrorism Office Director Mathias Hellman and MFA Counterterrorism Desk Officer Holger Kraemer provided Global Affairs Officer with additional information July 18 - 21.

[1](#)3. (C) Kraemer and Hellman clarified the timeline and the legal background:

- January 23, 2005: Germany arrested Ibrahim Mohammed Khalil and Yasser Abu Shaweesh (Ismail's brother). In a press release, the Federal Prosecutor General accused the two of membership in and support of Al-Qaida.
- May 19, 2005: The Federal Prosecutor sought and obtained a Federal Court of Justice arrest warrant for Ismail Abu Shaweesh. The Court agreed to the arrest warrant on financial fraud charges, but not for supporting a terrorist organization. The Court did add that despite this early decision, however, the Federal Prosecutor had the right to continue the terrorism investigation. The German Government presented this arrest warrant (along with other documents) to the USG to support the proposed designation.
- May 21, 2005: German officials arrested Ismail Abu Shaweesh. In a press release, the Federal Prosecutor General connected Ismail's activities and arrest to the earlier arrest of Khalil and Ismail's brother Yasser. The Federal Prosecutor accused Ismail of involvement in a fraud to obtain 930,000 Euros from life insurance providers. The Prosecutor stated that the extent of Ismail's knowledge that some portion of the proceeds would or could be for the benefit of al-Qaida was the subject of further investigation.
- Hellman clarified that, as is German legal custom, the Federal Prosecutor General initiated the charges during this

pre-trial period because of the terrorism charge: the Federal Prosecutor General has the lead whenever individuals are charged with terrorism. For the purposes of obtaining an arrest warrant, the Federal Prosecutor General goes to the Federal Court of Justice. For the trial itself, the case is sent to the appropriate court in one of Germany's 16 federal states, in this case Dusseldorf.

- Kraemer clarified that the German Government elected not to propose Ismail's name when it proposed Khalil and Ismail's brother Yasser in 2005 for inclusion in the UNSCR 1267 list due to the doubts expressed in the Federal Judge's May 19, 2005 decision. That said, during this pre-trial period, the Federal Prosecutor General continued his investigation into Ismail's connection to al-Qaida.

- Under the German legal system, the defendant can appeal for release from pre-trial detention at any time and the Court reviews pre-trial detention automatically after six months. The prosecutor has to present information to the Court to justify the continued detention. Thus all three defendants were subject to reviews during their time in detention. At any point, the Court can issue an order affecting the continued detention of the defendant.

- On March 14, 2006, the Dusseldorf court issued an order which Kraemer and Hellman consider a victory for the Federal Prosecutor and which they say sheds light on the Federal Prosecutor's investigation. The German Government has provided the decision to the USG to support the proposed UNSCR 1267 listing of Ismail. Hellman and Kraemer state the March 14, 2006 order makes irrelevant that part of the May 19, 2005 Federal Court of Justice decision that cast doubt on the connections between Ismail and al-Qaida. On March 14, 2006 the Dusseldorf court actually trying Ismail (rather than the Federal Court hearing a request for his initial arrest

ten months earlier), after considering further information from the Federal Prosecutor, instructed the defendant Ismail Abu Shaweesh that he might face punishment for the crime under German law of "membership in a terrorist organization."

Hellman confided the Federal Prosecutor had merely hoped the judge would support a charge of "supporting a terrorist organization." The Federal Prosecutor was surprised and pleased that the Dusseldorf court had instead warned Ismail about the "membership" charge, a more serious charge which carries with it the threat of more jail time. Hellman clarified the Court in the end may decide that the "membership" charge cannot be justified, but in that case the "support" charge still remains on the table.

- Kraemer reports the Dusseldorf court's order promoted the German Government to seek Ismail's UNSCR 1267 listing. Kraemer and Hellman both said Ismail's charge of supporting a terrorist group (i.e., al-Qaida) under German law indicates a closer involvement with al-Qaida than does the "association with al-Qaida" standard of the UNSCR 1267 Committee. Kraemer and Hellman said the German Government's position in seeking Ismail's 1267 listing did not depend on the "membership in a terrorist organization" charge; Germany would pursue UNSCR 1267 listing on the basis of the "supporting a terrorist organization" charge. The German Government believes in the connection of Ismail Abu Shaweesh to al-Qaida on the basis of the additional connections the Federal Prosecutor found to tie Ismail to al-Qaida, connections which convinced the Dusseldorf Court.

- As outlined in ref B, on May 9, 2006 the trial against Ibrahim Mohammed Khalil, Yasser Abu Shaweesh, and Ismail Abu Shaweesh began. According to press reports, the Federal Prosecutor charged Khalil and Yasser with membership in a terrorist organization (al-Qaida), while charging Ismail with support of a terrorist organization (al-Qaida) -- notwithstanding the Court's earlier (but not public) warning to Ismail that it might support the more serious "membership" charge.

14. (C) Kraemer stated the MFA would support a U.S. request

for additional information to the German Ministry of Justice.

The MoJ's Hellman responded, however, that the Ismail Abu Shaweesh trial is ongoing and it is not possible for the USG, or anyone other than Federal Prosecutor, to access the Federal Prosecutor's file. Hellman reminded that leaking such information from an ongoing trial is a punishable offense. Kraemer indicated Germany would instruct its Mission in New York to proceed with the proposed listing the week of July 24.

TIMKEN JR